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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/616,289 | 07/10/2003 | James E. Romans | 005242.00102 | 1577 |
| 22907 | 7590 | 08/25/2004 | EXAMINER | |
| BANNER & WITCOFF 1001 G STREET N W SUITE 1100 WASHINGTON, DC 20001 | | | CHAWAN, SHEELA C | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2625 | |

DATE MAILED: 08/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 10/616,289 | Applicant(s) ROMANS, JAMES E. | |
| | Examiner Sheela C Chawan | Art Unit 2625 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>7/10/03</u> . | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2625

DETAILED ACTION

Preliminary Amendment

1. Preliminary amendment filed on 12/4/03 has been entered.

Drawings

2. The Examiner has approved drawings filed on 7/10/03.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-9 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-17 of U.S. Patent No. 6,618,492 B1. Although the conflicting claims are not identical, they are not patentably distinct from each other because. The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming the common subject matters as follow.

As to claim 1, discloses a method for determining adhesive resin distribution on wood substrate to be formed into a wood-based composite, where applied onto the

Art Unit: 2625

wood substrate, said method comprising the steps of U.S. Patent No. (6.618,492 B1),
Preamble teaches see claim 1, (column 9, lines 14-17).

obtaining a sample of wood flakes having applied adhesive resin and placing the
sample wood flakes on a scanning bed U.S. Patent No.(6.618,492 B1),
Preamble teaches see claim 1, (column 9, lines 18-20);

scanning the wood substrate to provide image data U.S. Patent No. (6.618,492
B1), teaches see claim 1, (column 9, lines 18-20);

using image analysis software with resin analysis macros installed on a
computer wherein the image data of the wood substrate is filtered to provide a high
contrast image that shows each adhesive resin spot differentiated from a bare wood
substrate on which the adhesive resin spot is situated U.S. Patent No. (6.618,492 B1),
teaches see claim 1, (column 9, lines 23- 29); and

measuring and analyzing the high contrast image, using the image analysis
software with resin analysis macros, to provide an output showing at least a percent
coverage of the wood substrate by the adhesive resin situated U.S. Patent No.
(6.618,492 B1), teaches see claim 1, (column 9, lines 30-33).

As to claim 2 discloses the substrate having applied adhesive resin, heating the
wood substrate until spots of adhesive resin are substantially differentiable from a
portion of the wood substrate that is not covered by the adhesive resin U.S. Patent No.
(6.618,492 B1), teaches see claim 2, (column 9, lines 34-38).

Art Unit: 2625

As to claim 3, discloses the method wherein the sample of wood substrate is heated at 250 degrees Fahrenheit resin U.S. Patent No. (6,618,492 B1), teaches see claim 3, (column 9, lines 39- 40).

As to claim 4, discloses the method wherein the sample of wood substrate is heated for a time between 15 minutes and 45 minutes U.S. Patent No. (6,618,492 B1), teaches see claim 4, (column 9, lines 41-43).

As to claim 5, discloses the method of claim wherein the wood substrate comprises wood flakes, and

wherein measuring and analyzing the high contrast image includes U.S. Patent No. (6,618,492 B1), teaches see claim 5, (column 9, lines 44-45).

determining an area of the adhesive resin spots U.S. Patent No. (6,618,492 B1), teaches see claim 5, (column 9, lines 45-46);

determining an area of the wood flake on which the adhesive resin spots are situated U.S. Patent No. (6,618,492 B1), teaches see claim 5, (column 9, lines 46-48);

determining a percent coverage of the area of the wood flake by the adhesive resin spots U.S. Patent No. (6,618,492 B1), teaches see claim 5, (column 9, lines 48-49); and

determining an average percent coverage area of a pre selected number of wood flakes by the adhesive resin spots U.S. Patent No. (6,618,492 B1), teaches see claim 5, (column 9, lines 49- 51).

As to claim 6, discloses a system for determining adhesive resin distribution on adhesive resin blended wood substrate for wood-based composite production, comprising U.S. Patent No. (6.618,492 B1), Preamble teaches see claim 7, (column 9, lines 56- 58):

flatbed scanner arranged to receive a sample of the adhesive resin blended wood substrate from an output of a blender, for scanning the adhesive resin blended wood substrate to provide image data to image analysis software with resin analysis macros comprising U.S. Patent No. (6.618,492 B1), teaches see claim 7, (column 9, lines 59- 64); and

a computer having the image analysis software with resin analysis macros installed thereon, the computer being arranged to receive the image data from the flatbed scanner and configured for filtering the image data to provide a high contrast image that shows each adhesive resin spot differentiated from a bare wood substrate on which the adhesive resin spot is situated, for measuring an area of each adhesive resin spot and the area of bare wood substrate on which the adhesive resin spot is located and for analyzing the image data to provide an output showing at least a percent coverage of the wood substrate by the adhesive resin U.S. Patent No. (6.618,492 B1), teaches see claim 7, (column 9, line 66 through column 10, line 9).

As to claim 7, discloses a method for determining adhesive resin bond quality on wood samples pulled from a wood-based veneer composite that has been vacuum/water-soaked for a predetermined amount of time, to provide a grade for the

Art Unit: 2625

wood-based veneer composite, said method comprising the steps of U.S. Patent No. (6.618,492 B1), Preamble teaches see claim 14, (column 10, lines 48- 53):

heating the wood samples pulled from the wood-based composite for one of a predetermined time and until the wood samples are substantially dry U.S.

Patent No. (6.618,492 B1), teaches see claim 14, (column 10, lines 56- 57);

placing said wood samples on a scanning bed U.S. Patent No. (6.618,492 B1), teaches see claim 14, (column 10, line 58);

scanning said wood samples to provide image data U.S. Patent No. (6.618,492 B1), teaches see claim 14, (column 10, line 59);

using image analysis software with resin analysis macros installed on a computer wherein the image data of each wood sample is filtered to provide a high contrast image that shows each adhesive resin spot differentiated from bare wood on which the adhesive resin spot is situated U.S. Patent No. (6.618,492 B1), teaches see claim 14, (column 10, lines 62- 67); and

measuring and analyzing the high contrast image, using the image analysis software with resin analysis macros, to provide an output showing at least a percent resin coverage/wood failure percentage of the wood sample U.S. Patent No. (6.618,492 B1), teaches see claim 14, (column 11, lines 1 - 5).

As to claim 8, discloses the method wherein the grade is also based on at least one of a selected cure time, a press time, a press temperature and the adhesive resin used to manufacture the wood-based veneer composite U.S. Patent No. (6.618,492 B1), teaches see claim 15, (column 11, lines 6 - 9).

Art Unit: 2625

As to claim 9, discloses the method of wherein measuring and analyzing the high contrast image includes: determining an area of the adhesive resin spots, determining an area of each wood sample on which the adhesive resin spots are situated, determining a percent coverage of the area of the wood sample by the adhesive resin spots, and determining an average percent coverage area of a pre selected number of wood samples by the adhesive resin spots U.S. Patent No. (6.618,492 B1), teaches see claim 16, (column 11, line 10 through column 12, lines 1-5

Contact Information

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheela C Chawan whose telephone number is 703-305-4876. The examiner can normally be reached on Monday - Thursday 6 - 7.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta can be reached on 703-308-5246. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

See
Sheela Chawan
Patent Examiner
Group Art Unit 2625
August 19, 2004



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